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IN THE

SUPREME COURT OF THE UNITED STATES

MAY TERM, 1970

NO. ?

In The Name Of The Commonwealth Of Pennsylvania

Hazel Mardis Meagher . . . . . Petitioner

versus

Commonwealth of Pennsylvania . . Respondent

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF PENNSYLVANIA FOR THE MIDDLE DISTRICT.

To the Honorable, the Chief Justice and Associate Justices of the Supreme Court of the United States.

Hazel Mardis Meagher, the petitioner herein prays that a writ of certiorari issue to review the judgment of the Supreme Court of Pennsylvania for the Middle District entered in the above entitled case on July 2, 1970.

OPINION BELOW

(312)

IN THE SUPREME COURT OF PENNSYLVANIA

Middle District

Hazel Merlin Meagher Appellant v. Commonwealth of Pennsylvania	No. 7 May Term, 1970 Appeal from the Order of the Court of Common Pleas of Dauphin County, Dated May 1, 1970 at No. 362 C. D. 1968

OPINION OF THE COURT

BELL, C. J. FILED July 2, 1970

This case is a trespass action filed by the plaintiff, Hazel Mardis Meagher, a resident of Indiana County, against the Commonwealth of Pennsylvania. The action was initiated by service of a copy of the complaint upon the Secretary of the Commonwealth and upon the Attorney General. The complaint and all other proceedings were written by the plaintiff without the assistance of an attorney and, needless to say, do not present the issues as clearly as they might. In essence, she states that the sale of a tract of land by officials in Indiana County for delinquent taxes and the subsequent removal of standing timber located thereon by various private individuals constituted an actionable trespass for which the Commonwealth must be held legally responsible.

The Commonwealth of Pennsylvania filed preliminary objections in the nature of a demurrer, setting forth three grounds, with two of which we agree, namely: (1) that the complaint failed to state a cause of action against the Commonwealth; and (2) that this suit is unauthorized by the laws of Pennsylvania, and thus is in violation of Article I, Section II, of the Pennsylvania Constitution, which provides, inter alia: "Suits may be brought against the Commonwealth in such manner, in such courts and in such cases as the Legislature may by law direct."

The lower Court concluded that the Commonwealth by reason of its Sovereignty, was immune from such suits, and as it has not consented to be sued in trespass, the complaint failed to state a claim upon which relief could be granted. The lower Court, therefore,

sustained the preliminary objections and dismissed the complaint.

In Commonwealth v. Berks County, 384 Pa. 447,72 A. 2d 129, the Court said (page 448): "Except for a presently immaterial jurisdiction conferred by the Constitution of the United States in respect of suits against States (Art. III, Sec. 2), a state may not be sued without its consent. In Bell Telephone Company of Penna. v. Lewis, 313 Pa. 374, 375, 169 A. 571, Mr. Justice SCHAFFER, speaking for this Court, termed the rule fundamental. See also Collins v. Commonwealth, 262 Pa. 572, 575, 106 A. 229. So far as Pennsylvania's courts are concerned, it is only as the legislature may by law direct that suits may be brought against the Commonwealth: Pennsylvania Constitution, Art. I, Sec. 11." See also, Bannard v. New York State Natural Gas Corp. 404 Pa. 269, 278, 172 A. 2d 306.

We see no need to judicially change or further expand the law in this field.* Suffice it to say that the Commonwealth has not consented to be sued in cases such as this.

Order affirmed.

* We do not pass upon or decide the merits of any claim or claims plaintiff may have against others.

[illegible] Merlin Meagher *Plaintiff*	In the Court of Common Pleas of
v.	Dauphin County, Pennsylvania
Commonwealth of Pennsylvania *Defendant*	No. 543 Commonwealth Docket 1968

MEMORANDUM OPINION AND ORDER

PER CURIAM:

On November 25, 1968, a complaint in trespass was filed by the plaintiff, Hazel Mardis Meagher, a resident of Indiana County, Pennsylvania, against the Commonwealth of Pennsylvania, the defendant. The complaint claims a sum of money for alleged derogation of property rights, overt acts of public officials and irregular procedure of law in violation of the constitutional rights of the plaintiff relative to interest or interests in real estate owned or claimed by plaintiff in Buffington Township, Indiana County. In essence plaintiff states that the sale of a tract of land by officials in Indiana County for deliquent taxes and the removal of standing timber located upon the ground resulting there from, constituted violations of the law imposing a legal responsibility upon the Commonwealth.

The Commonwealth of Pennsylvania filed preliminary objections in the nature of a demurrer setting forth (1) that the complaint fails to state a cause of action against the party defendant. (2) that the action against the defendant as a sovereign state is in violation of the 11th Ammendment to the Federal Constitution which grants immunity to the states from from private suits and (3) and that the suit is unauthorized by the laws of Pennsylvania and is in violation of Article I, Section 11 of the Constitution of Pennsylvania which provides, inter alia, "Suits may be brought against the Commonwealth in such manner, in such courts and in such cases as the Legislature may by law direct."

Because the law is clear that the Commonwealth of Pennsylvania by reason of its sovereignity is immune from suits and cannot be sued without consent in its own courts and no such statutory enactment or necessary inference from statutes exist in this case, the complaint fails to state a claim upon which relief can be granted and this Court lacks jurisdiction under the Constitution, See United States of America v. Board of Finance and Revenue, Appellant, 369 Pa. 386 (1951).

According, this 1 day of May 1969, the preliminary objections filed by the Commonwealth are sustained and the complaint in trespass filed by the plaintiff is dismissed.

CERTIFIED FROM THE RECORD

S\ LESTER A. SHAFFER, PROTHONOTARY

May 7, 1969

JURISDICTION

The Opinion of the Supreme Court of Pennsylvania to NO. 7 May Term 1970 was filed July 2, 1970.
Memorandum Opinion and Order filed in the Court of Common Pleas Dauphin County to NO. 543 Commonwealth Docket 1968 was filed May 1, 1969. Appeal filed June 2, 1969.

The Jurisdiction of this Court is invoked: Article III Sec. 1 of United States Constitution: The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. SECTION 2. The judicial Power shall extend to all cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; to all Cases affecting Ambassadors, other public Ministers and Consuls; - to all cases of admiralty and maritime Jurisdiction; - to Controversies to which the United States shall be a Party; to Controversies between two or more States; - between a State and Citizens of another State.

AMENDMENT XI THE JUDICIAL POWER OF THE UNITED STATES SHALL NOT BE CONSTRUED TO EXTEND TO ANY SUIT IN LAW OR EQUITY COMMENCED OR PROSECUTED AGAINST ONE OF THE UNITED STATES BY CITIZENS OF ANOTHER STATE, OR BY CITIZENS OR SUBJECTS OF ANY FOREIGN STATE.

BETWEEN Citizens of different States; - between Citizens of the same State claiming Lands under Grants of different States, and between A STATE, OR THE CITIZENS THEREOF, and foreign States, Citizens or Subjects.

AMENDMENT XIV United States Constitution.

SECTION I. ALL persons born or naturalised in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

QUESTION PRESENTED

Is Petitioner entitled to have the true and correct facts and allegations in the Captioned case considered?

Is Petitioner entitled to have the connected draft and other drafts appended considered to eliminate any confusing statements?

Was the preliminary objections in the nature of a demurrer SPAWNED by the failure to serve the named Defendant?

STATUTE INVOLVED

The Statute under which the Petitioner brought an action in Trespass against the taxing authorities and agents of Indiana County, Commonwealth of Pennsylvania is Title 42 U. S. C. A. Section 1983 Commonly known as Civil action for deprivation of rights. This Section reads as follows:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof,to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action of law, suit in equity, or other proper proceeding for redress. (R. S. 1979).

STATEMENT

Aggression - suppression - and intimidation was applied strengthened - supported and substantiated by the taxing authorities of Indiana County Pennsylvania to create the illegitimate and illegal authority of an Attorney's clients to make timber leases to cut timber.

THE COMPLAINT IN TRESPASS FILED TO NO. 543 C. D. 1968 IN THE COURT OF COMMON PLEAS, DAUPHIN COUNTY, PENNSYLVANIA, IS FOR THE LOSS OF TIMBER CUT ON THE APPELLANT'S GROUND SHOWN ON THE APPENDED DRAFT OF THE COMPLAINT AND ON THE BRIEF FOR THE APPELLANT AND RECORD MARKED TRACT NO. 1.

THE FAILURE OF THE PROPER AUTHORITIES TO SERVE THE PLEADINGS ON THE NAMED DEFENDANT IN THE CASE LISTED TO NO. 543 C. D. 1968 IN THE COURT OF COMMON PLEAS, DAUPHIN COUNTY, PENNSYLVANIA DIVERTED THE CONSTITUNIONAL LAWS AND STATUTES PRETAINING TO THE FACTS AND ALLEGATIONS IN THE CASE, TO LAW IRREVELANT AND NOT PRETAINING TO THE CASE.

THE LAND OF THE APPELLANT WAS NEVER SOLD FOR ANY OF THE REASONS SET FORTH BY THE APPELLEE ON PAGE ONE, TWO AND THREE OF THE BRIEF FOR THE APPELLEE.

"All illegal acts are offences against the State."

"The District Courts of the United States shall have original jurisdiction, exclusive of the courts of the States, of all offenses against the laws of the United States.

"Nothing in this title shall take away or impair the jurisdiction of the Courts of the several States under the laws thereof" (See copy of pertinate papers to NO. 543 C. D. 1968 filed in the Prothonotary's office of the Supreme Court of Pennsylvania and submitted to the Honorable John C. Bell, Jr.).

Article I Section 11 of the Constitution of Pennsylvania 1968 is used in part; the second half being quoted "as being in violation of Article I Section 11 of the Constitution of the Commonwealth of Pennsylvania which provides:

"Suits may be brought against the Commonwealth in such manner, in such courts and in such cases as the Legislature may by law direct." seems to assert the contrary or opposite of:

"ALL COURTS shall be open; and every man for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law, and right and justice administered without sale, denial or delay. ——————— Suits may be brought against the Commonwealth in such manner, in such courts and in such cases as the Legislature may by law direct.

REASONS FOR GRANTING THE WRIT

The Petitioner contends that there was: -

No due process of law.

The departure from the accepted and usual course of judicial proceedings and the sanction of such a departure by a lower Court.

The entire Defense filed to #543 C. D. 1968 in the Court of Common Pleas, Dauphin County, Pennsylvania, was instituted on a non existing claim of suing the Commonwealth of Pennsylvania, based on the failure of the proper authorities to serve the pleadings on the named defendant.

The constant asserted claim of:

Derogation of property rights;

Overt acts of public officials

Irregular procedure of law

have never been examined by the Courts below on the merits of the claim.

THEREFOR: The Representatives of the Judicial Power of the United States of America are assembled, appealing to the Supreme Judge of the World, for the rectitude of all of the grievances suffered by the Petitioner.

Respectfully submitted,

Hazel Hardin Meagher,
P. O. Box 74,
Dillsburg, Pa. 17019
(Layman)

Attorneys have repeatedly refused to become personally involved.